

**North East Derbyshire District Council**

**Council**

**21 May 2018**

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| <b>Review of the Council's Constitution</b> |
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**Report of the Joint Head of Corporate Governance and Monitoring Officer**

This report is public

**Purpose of the Report**

- To consider proposed amendments to the Council's Constitution as part of the Annual Review for adoption.

**1 Report Details**

- 1.1 The Constitution is the Council's 'rulebook'. It sets out how the Council operates and how it makes decisions. Council approved its latest version of the Constitution at the Annual Council meeting in May 2017.
- 1.2 The Council is required by law to prepare and keep up to date a Constitution which explains how the Council operates, how decisions are made and the procedures which are to be followed to ensure that these are efficient, transparent and accountable to local people.
- 1.3 Article 1 of the Constitution stipulates that the Monitoring Officer must monitor and review how it is working to make sure it gives full effect to its purpose.
- 1.4 One of the functions of the Standards Committee is to undertake an annual review of the Council's Constitution to ensure it is up to date and in line with legislation and current circumstances.
- 1.5 The Standards Committee considered the Review of the Constitution at its meetings on March 2018 and 3 May 2018 and supported all of the amendments proposed. The following areas on the Constitution and related procedures have been reviewed during 2017/18:
  - Scheme Of Delegation To Officers
  - Functions Scheme
  - Protocol on Councillor – Officer relations
  - Procurement Rules/ Contract Procedure Rules
  - Petition Scheme
  - Article 9 – Joint Arrangements
  - Joint Employment Committee (JEC) and Joint Appeals Committee (JAC)

- Inclusion of reference to training for Members on Licensing, Standards and Scrutiny Committees and other Mandatory Training
- Appointment to Outside Bodies – Executive and Non-Executive Appointments
- Access to Minutes and Minute Books submission to Council
- Procedure Rules for Questions from the Public and by Councillors and Motions
- Correction of numbering in the Council Procedure Rules
- Licensing Sub Committee Members ‘Housekeeping’ - minor corrections and re-wording to bring the Constitution up-to-date.

1.6 Some minor amendments have been identified since Standards Committee considered the review. The amendments have been discussed with the Chair of Standards Committee, who agreed they were minor changes that could be incorporated into the review submitted to Council. These amendments are itemised as follows:

- Inclusion of the approval of Disabled Facilities Grants (and related applications) in the list of Executive Functions within the Functions scheme. This has been added in the Delegation Scheme as a matter that can be dealt with by Officers, however for clarity and consistency it should also be included in the Functions Scheme and was omitted in error.
- Deadlines for exchange of information between the Chief Executive Officer and the leaders of the Council’s political groups relating to the number of allocated seats on committees and the nominations for those committee seats – it is proposed that this state ‘clear’ working days, for consistency of interpretation with other deadlines within the Council Procedure Rules.

1.7 Each of the areas of review, other than the housekeeping changes, has been set out in detail, including the rationale for the amendments proposed, in **Appendix 1**.

1.8 All of the amendments have been entered into the Constitution at **Appendix 2**. The amendments appear in red as ‘tracked changes’.

*Due to the size of the document, a paper copy has not been issued to all Members however a copy has been made available on Reception and in the Members’ Room for inspection. The document is also published on the Council’s website and is accessible to Members on their iPads.*

## **2 Conclusions and Reasons for Recommendation**

2.1 The Standards Committee and the Governance Team have carried out the review with a particular focus on certain areas of the Constitution that required attention. These areas have been thoroughly discussed and the amendments proposed are recommended to Council for approval.

2.2 It is required by law to keep an up to date constitution. Part of the role of the Standards Committee is to review the document on a regular basis to make such recommendations to Council as necessary.

### **3 Consultation and Equality Impact**

- 3.1 The Standards Committee, Chief Executive Officer, Monitoring Officer and Deputy Monitoring Officer have been consulted on the preparation of this document. All Members have also been consulted on the Member/Officer Relations Protocol specifically.
- 3.2 An Equality Impact Assessment has not been necessary as part of this review.

### **4 Alternative Options and Reasons for Rejection**

- 4.1 The Council may make other amendments or reject the amendments proposed as part of this review, however the rationale for each proposal has been to ensure the Council's procedures comply with the law, are in line with best practice, are practical and up-to-date, as well as in accordance with other decisions taken by the Council, such as the Strategic Alliance Management Team restructure. No alternative options are therefore proposed.

### **5 Implications**

#### **5.1 Finance and Risk Implications**

- 5.1.1 None.

#### **5.2 Legal Implications including Data Protection**

- 5.2.1 The Council is required under the Localism Act 2011 to prepare and keep up-to-date a constitution that contains its standing orders, code of conduct, such other information that the Secretary of State may direct and such other information that the authority considers appropriate.

#### **5.3 Human Resources Implications**

- 5.3.1 None.

### **6 Recommendations**

- 6.1 That the amendments to the Constitution attached at **Appendix 2** be approved.
- 6.3 That delegated power be given to the Monitoring Officer to make changes to the Constitution arising from any new legislation, administrative errors or conflicts in interpretation.

## 7 Decision Information

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| <b>Is the decision a Key Decision?</b><br>A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:<br>BDC:      Revenue - £75,000 <input type="checkbox"/><br>Capital - £150,000 <input type="checkbox"/><br>NEDDC:   Revenue - £100,000 <input type="checkbox"/><br>Capital - £250,000 <input type="checkbox"/><br><input checked="" type="checkbox"/> Please indicate which threshold applies | No                            |
| <b>Is the decision subject to Call-In?</b><br>(Only Key Decisions are subject to Call-In)  | No                            |
| <b>District Wards Affected</b>   | None Directly                 |
| <b>Links to Corporate Plan priorities or Policy Framework</b>  | Demonstrating Good Governance |

## 8 Document Information

| Appendix No  | Title  |
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| 1<br>2   | Summary of Amendments to the Constitution<br>Tracked Changes to the Constitution |
| <b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers) |  |
| None   |  |
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